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DEPARTMENT OF COMMERCE

International Trade Administration

A-552-801

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2013-2014

AGENCY: Enforcement and Compliance, International Trade Administration,
Department of Commerce

SUMMARY: The Department of Commerce (“the Department”) is conducting the 11th administrative review of the antidumping duty order on certain frozen fish fillets (“fish fillets”) from the Socialist Republic of Vietnam (“Vietnam”).¹ The Department preliminarily determines that the Hung Vuong Group (“HVG”)² and Thuan An Production Trading and Service Co., Ltd. (“TAFISHCO”) sold subject merchandise in the United States at prices below normal value (“NV”) during the period of review (“POR”) August 1, 2013, through July 31, 2014. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

¹ See *Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003) (“Order”).

² The Department previously found that An Giang Fisheries Import & Export Joint Stock Company (“Agifish”) is a member of the Hung Vuong Group, which also includes Asia Pangasius Company Limited, Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong – Vinh Long Co., Ltd. and Hung Vuong – Sa Dec Co., Ltd. See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Review; 2011–2012*, 79 FR 19053 (April 7, 2014).

DATES: Effective date: {Insert date of publication in the *Federal Register*.}

FOR FURTHER INFORMATION CONTACT: Javier Barrientos or Jerry Huang, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202-482-2243 or 202-482-4047, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 30, 2014, the Department initiated the 11th administrative review of the antidumping duty order on fish fillets from Vietnam for the period August 1, 2013, through July 31, 2014.³ On April 8, 2015, the Department partially extended the deadline for issuing the preliminary results by 106 days.⁴ On August 11, 2015, the Department further extended the deadline for issuing the preliminary results by 14 days.⁵ The revised deadline for the preliminary results of this administrative is now August 31, 2015.

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus*. These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000,

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 58729 (September 30, 2014) (“*Initiation Notice*”).

⁴ See Memorandum to James P. Maeder, Senior Director, Office I, Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations regarding “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Preliminary Results of 2013-2014 Antidumping Duty Administrative Review,” dated April 8, 2015.

⁵ See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations regarding “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Second Extension of Deadline for Preliminary Results of 2013-2014 Antidumping Duty Administrative Review,” dated August 11, 2015.

1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000, 1604.19.5100, 1604.19.6100 and 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (“HTSUS”).⁶ Although the HTSUS subheading is provided for convenience and Customs purposes, our written description of the scope of the order is dispositive.⁷

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. On November 25, 2014, Vinh Hoan Corporation (“Vinh Hoan”) withdrew its review request.⁸ On November 25, 2014, Petitioner⁹ withdrew its review request with respect to Vinh Hoan.¹⁰ On December 23, 2014, Bien Dong Seafood Co., Ltd (“Bien Dong”) withdrew its review request,¹¹ and Petitioner withdrew its review request with respect to Bien Dong Seafood on the same date.¹² On December 29, 2014, Petitioner withdrew its review request with respect to Hung Vuong Seafood Joint Stock

⁶ Until July 1, 2004, these products were classifiable under HTSUS 0304.20.6030 (Frozen Catfish Fillets), 0304.20.6096 (Frozen Fish Fillets, NESOI), 0304.20.6043 (Frozen Freshwater Fish Fillets) and 0304.20.6057 (Frozen Sole Fillets). Until February 1, 2007, these products were classifiable under HTSUS 0304.20.6033 (Frozen Fish Fillets of the species *Pangasius*, including basa and tra). On March 2, 2011, the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (“CBP”): 1604.19.2000 and 1604.19.3000. On January 30, 2012, the Department added eight HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

⁷ See “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Decision Memorandum for the Preliminary Results of the 2012-2013 Antidumping Duty Administrative Review,” dated concurrently with and hereby adopted by this notice (“Preliminary Decision Memorandum”), for a complete description of the Scope of the Order.

⁸ See Letter from Vinh Hoan regarding Frozen Fish Fillets from the Socialist Republic of Vietnam: Withdraw of Request for Administrative Review – Vinh Hoan Corporation, dated November 25, 2014.

⁹ Catfish Farmers of America and individual U.S. catfish processors America's Catch, Alabama Catfish Inc. dba Harvest Select Catfish, Inc., Heartland Catfish Company, Magnolia Processing, Inc. dba Pride of the Pond, and Simmons Farm Raised Catfish, Inc. (hereinafter, “Petitioner”).

¹⁰ See Letter from Petitioner regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Withdrawal of Request for Antidumping Duty Administrative Review, dated November 25, 2014.

¹¹ See Letter from Bien Dong Seafood regarding Frozen Fish Fillets from the Socialist Republic of Vietnam: Withdrawal of Request for Administrative Review - Bien Dong Seafood Co., Ltd., dated December 23, 2014.

¹² See Letter from Petitioner regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Withdrawal of Request for Antidumping Duty Administrative Review, dated December 23, 2014.

Company (“Hung Vuong Seafood”), Thanh Hung Co., Ltd. (also known as Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. or Thanh Hung) (“Thanh Hung”), Vinh Long Import-Export Company (also known as Vinh Long or Imex Cuu Long) (“Vinh Long”).¹³ No other party requested an administrative review of Vinh Hoan, Bien Dong, Hung Vuong Seafood, Thanh Hung, and Vinh Long. Therefore, in accordance with 19 CFR 351.213(d)(1), the Department is rescinding this review of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam with respect to Vinh Hoan, Bien Dong, Hung Vuong Seafood, Thanh Hung, and Vinh Long. The review will continue with respect to the other firms for which a review was requested and initiated.

Preliminary Determination of No Shipments

The following companies filed no-shipment certifications indicating that they did not export subject merchandise to the United States during the POR: An Giang Agriculture and Food Import-Export Joint Stock Company, Anvifish Joint Stock Company, Asia Commerce Fisheries Joint Stock Company, Binh An Seafood Joint Stock Company, Dai Thanh Seafoods Company Limited, Fatifish Company Limited, Golden Quality Seafood Corporation, Hiep Thanh Seafood Joint Stock Company, Hoa Phat Seafood Import-Export and Processing JSC, Ngoc Ha Co., Ltd. Food Processing and Trading, Quang Minh Seafood Company, Limited, QVD Food Company, Ltd., Saigon-Mekong Fishery Co., Ltd., Southern Fisheries Industries Company, Ltd., TG Fishery Holdings Corporation, and To Chau Joint Stock Company (collectively “No Shipment Companies”). Based on the certifications submitted by the above companies, and our analysis of the CBP information, we preliminarily determine that the No Shipment Companies

¹³ See Letter from Petitioner regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Withdrawal of Request for Antidumping Duty Administrative Review, dated December 29, 2014. We note that Petitioners also withdrew their request for Anvifish Co., Ltd. (“Anvifish”), and Vinh Quang Fisheries Corporation (“Vinh Quang”). However, there are still outstanding review requests for these companies at this time.

did not have any reviewable transactions during the POR. The Department finds that consistent with its practice in non-market economy (“NME”) cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to the No Shipment Companies and issue appropriate instructions to CBP based on the final results of the review.¹⁴

Vietnam-Wide Entity

A review was requested, but not rescinded, for Asia Pangasius Company Limited, Nam Phuong Seafood Co., Ltd., NTACO Corporation, Thien Ma Seafood Co., Ltd., Thuan Hung Co., Ltd. (collectively, “No Response Companies”).¹⁵ The No Response Companies are not eligible for separate rate status because they did not submit completed separate rate applications or certifications.¹⁶ Accordingly, the Department finds that these No Response Companies are a part of the Vietnam-wide entity.

The Department’s change in policy regarding conditional review of the NME-wide entity applies to this administrative review.¹⁷ Under this policy, the Vietnam-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the Vietnam-wide entity in this review, the entity is not under review and the entity’s rate is not subject to change.

Methodology

The Department conducted this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(A) of the Tariff Act of 1930, as amended (“the Act”). Constructed export prices and

¹⁴ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).

¹⁵ See *Initiation Notice*, 79 FR at 58732.

¹⁶ *Id.*, 79 FR at 58730.

¹⁷ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

export prices have been calculated in accordance with section 772 of the Act. Because Vietnam is an NME within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2013, through July 31, 2014:

Exporter	Weighted-Average Margin (Dollars/Kilogram) ¹⁸
Hung Vuong Group ¹⁹	0.36
Thuan An Production Trading and Services Co., Ltd.	0.84
Basa Joint Stock Company	0.60

¹⁸ In the third administrative review of this order, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479 (March 24, 2008).

¹⁹ This rate is applicable to the Hung Vuong Group, which includes: An Giang Fisheries Import and Export Joint Stock Company, Asia Pangasius Company Limited, Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong – Vinh Long Co., Ltd., and Hung Vuong – Sa Dec Co., Ltd.

Cadovimex II Seafood Import-Export and Processing Joint Stock Company	0.60
Cafatex Corporation	0.60
Can Tho Import-Export Joint Stock Company	0.60
C.P. Vietnam Corporation	0.60
Cuu Long Fish Joint Stock Company	0.60
East Sea Seafoods LLC	0.60
GODACO Seafood Joint Stock Company	0.60
Green Farms Seafood Joint Stock Company	0.60
Hoang Long Seafood Processing Company Limited	0.60
International Development and Investment Corporation	0.60
Nam Viet Corporation	0.60
NTSF Seafoods Joint Stock Company	0.60
Seafood Joint Stock Company No. 4 - Branch Dong Tam Fisheries Processing Company	0.60
Viet Phu Foods and Fish Corporation	0.60
Vinh Quang Fisheries Joint-Stock Company	0.60

Disclosure, Public Comment & Opportunity to Request a Hearing

The Department will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs within 30 days after the date of publication of these preliminary results of review in the *Federal Register*.²⁰ Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.²¹ Parties who submit arguments are requested to submit with the argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of

²⁰ See 19 CFR 351.309(c)(1)(ii).

²¹ See 19 CFR 351.309(d)(1)-(2).

authorities.²² Parties submitting briefs should do so pursuant to the Department's electronic filing system, ACCESS.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined. *See* 19 CFR 351.310(d). Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the *Federal Register*, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.²³ The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

²² *See* 19 CFR 351.309(c)(2), (d)(2).

²³ *See* 19 CFR 351.212(b).

For any individually examined respondent whose weighted average dumping margin is above *de minimis* (i.e., 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis*, the Department will instruct CBP to collect the appropriate duties at the time of liquidation.²⁴ Where either a respondent's weighted average dumping margin is zero or *de minimis*, or an importer- (or customer-) specific *ad valorem* is zero or *de minimis*, the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²⁵

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, then zero cash deposit will be required); (2) for previously investigated or reviewed Vietnam and non-Vietnam exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the Vietnam -wide entity; and (4) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the

²⁴ See 19 CFR 351.212(b)(1).

²⁵ See 19 CFR 351.106(c)(2).

cash deposit rate will be the rate applicable to the Vietnam exporter that supplied that non-Vietnam exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This preliminary determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 21, 2015.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum:

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